

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LOMA LINDA APPROVING AND ADOPTING
THE DEVELOPMENT AGREEMENT BETWEEN UP
HOMES, LLC, A CALIFORNIA LIMITED LIABILITY
COMPANY, AND THE CITY OF LOMA LINDA

WHEREAS, Government Code Sections 65864 through 68569.5 provide the statutory authority for development agreements between municipalities and persons owning real property interest in the City; and

WHEREAS, the City has received an application to consider a development agreement and proceedings have been taken in accordance with City's rules and regulations, including, without limitation, a public hearing on the application by the Planning Commission and by the City Council; and

WHEREAS, notice of the City Council's intention to consider adoption of a development agreement has been given as provided by law; and

WHEREAS, the City has completed the preparation of an Initial Study and Mitigated Negative Declaration ("MND") in accordance with the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA") and its implementing regulations contained in Title 14 of the California Code of Regulations, sections 15000 et seq. (the "CEQA Guidelines"), and has made the MND available to the public and to all interested agencies for review and comment, as required by CEQA; and

WHEREAS, the City has considered all comments and correspondence, if any, received in response to the MND, and the findings and conclusions made by the City pursuant to this Ordinance are based upon all of the oral and written evidence presented to it and taken as a whole.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMA LINDA DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The City Council finds that the provisions of the development agreement are consistent with the General Plan and the Zoning Ordinance of the City of Loma Linda.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT. The City Council hereby approves and adopts the Development Agreement between UP Homes, LLC, a California Limited Liability Company and the City of Loma Linda (the "Agreement") attached as Exhibit "A" and incorporated by reference. The City Manager and City Clerk of the City of Loma Linda are hereby authorized and directed to execute and attest, respectively, the Agreement on behalf of the City of Loma Linda.

SECTION 3. CEQA. The City hereby finds and ordains that:

A. The MND reflects the independent judgment of the City.

B. There is no evidence that the approval and implementation of the Development Agreement, together with the mitigation measures incorporated pursuant to the MND, will have the potential to cause an adverse effect on wildlife resources or the habitat on which such wildlife depends, and the District finds, on the basis of the substantial evidence in the record, that the presumption of adverse effect set forth in 14 Cal. Code of Regs. § 753.5(d) does not apply.

C. There is no substantial evidence in light of the whole record that the approval and implementation of the Development Agreement, with the mitigation measures incorporated therein, would have a significant effect on the environment.

D. The City hereby adopts the mitigation measures as part of the Conditions of Approval attached hereto as Exhibit "B".

E. The City hereby approves and adopts the MND and directs staff to:

(1) Prepare and file a Certificate of Fee Exemption with the California Department of Fish and Game pursuant to 14 California Code of Regulations section 753.5; and

(2) Prepare and file a Notice of Determination with the Clerk of the County of San Bernardino and the Office of Planning and Research pursuant to 14 California Code of Regulations section 15075; and

(3) Keep a copy of the MND and all documents referenced therein at the City offices and available for public review.

SECTION 4. RECORDATION. The City Clerk is directed to transmit the development agreement to the County Recorder for recordation no later than ten (10) days after the adoption of this ordinance.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Loma Linda and to cause publication once in The Sun the official newspaper of the City of Loma Linda, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on September 12, 2006, and adopted as an ordinance of the City of Loma Linda at a regular meeting of the City Council held on _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Pamela Byrnes-O'Camb, City Clerk

Robert H. Christman, Mayor

(SEAL)